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10/568,249	08/03/2006	Gunter Leopold	FISC0102US	9694
43076	7590	08/27/2007	EXAMINER	
MARK D. SARALINO (GENERAL)			MERLINO, ALYSON MARIE	
RENNER, OTTO, BOISSELLE & SKLAR, LLP			ART UNIT	PAPER NUMBER
1621 EUCLID AVENUE, NINETEENTH FLOOR			3676	
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			08/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,249

Applicant(s)

LEOPOLD, GUNTER

Examiner

Alyson M. Merlino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The examiner acknowledges applicant's amendments to claims 1, 2, 4, and 5, and the original presentation of claim 3 filed 4 June 2006.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. **Claims 1-5 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, within the preamble of claim 1, it is stated that the safety locking mechanism is for a receptacle in a vehicle. This is a statement of intended use, therefore, if applicant wants to refer to the receptacle within the body of claim 1 and the dependent claims, then the receptacle must be positively claimed within the claim; i.e. a safety locking mechanism in combination with a receptacle in a vehicle. For examination purposes, the safety locking mechanism will be considered in combination with the receptacle.
4. **Claims 1, 2, 4, and 5 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, applicant claims a "receptacle or other object", however it is unclear what "other object" applicant is referring to in the claims. A suggested change is to refer to the "other object" as "compartment with a

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movable member” or a similar limitation. For examination purposes, this limitation will be given a broad interpretation until further clarification from applicant.

5. **Claim 5 is rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant claims second restoring device, however, the mechanical relationship between the second restoring device 14 and the restoring rib 24 is unclear in the specification. Specifically, it is unclear how the second restoring device 14 will maintain the mass 11 in channel 20 as the restoring rib 24 moves over the second restoring device. Until further clarification from applicant, the claim will be broadly interpreted.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-3 and 5 are rejected** under 35 U.S.C. 102(b) as being anticipated by Fukumoto (US-5052728).

8. **In regards to claim 1**, Fukumoto discloses a safety locking mechanism (Figure 5) having a mass 12 movably guided by guide means 11, 21 from a basic position (Figure 9) into a deflected position (Figure 8). Fukumoto further discloses that the mass

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holds the receptacle closed when in the deflected position (Figure 8). Fukumoto also discloses that the safety locking mechanism has a device 20 with hold the mass in the basic position when no acceleration or deceleration acts in the deflection direction on the mass. The safety locking mechanism also includes an engaging device 23, which holds the mass in the deflected position (Figure 8), and a restoring device 24 effective by applying an overpressure to the receptacle, which directs the mass into the basic position (Col. 6, lines 51-68 and Col. 7, lines 1-12).

9. **In regards to claims 2 and 3**, Fukumoto discloses a damping element 30, 31, 32 that acts against the application of an overpressure to the receptacle (Col. 7, lines 33-43).

10. **In regards to claim 5**, Fukumoto discloses a second restoring device 9.

Allowable Subject Matter

11. **Claim 4 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The claim contains allowable subject matter not fairly disclosed by the prior art pertaining to the mass being deflectable in two opposing directions, with the mass being held in deflected position by the engaging device, and the ability of the mass to hold the receptacle closed in each deflected position.

Response to Arguments

12. Applicant's arguments filed 4 June 2007 have been fully considered but they are not persuasive.

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13. In regards to applicant's remarks on page 9, applicant argues that the cam lever 12 disclosed by Fukumoto does not provide a safety locking mechanism, however, it is apparent from the disclosure of Fukumoto that when the cam lever is held in the deflected position (Figure 8) by the engaging device (engagement of engaging device 23 with mass 12, Figure 8) to hold the receptacle in a closed position. Therefore, the cam lever and engagement device provide a safety locking mechanism. Furthermore, applicant argues on page 9 in the fourth full paragraph that the cam lever 12 disclosed by Fukumoto itself does not provide a safety locking mechanism. Applicant does not claim this limitation in Claim 1, and furthermore, the movement of cam lever 12 into the deflected position does provide a safety locking mechanism because it blocks the movement of pin 22, which holds the receptacle closed.

14. In regards to applicant's arguments on pages 10 and 11, applicant argues that the safety locking device disclosed by Fukumoto does not function in accordance with the claimed device, however, the restoring device 24 is effective in response to an overpressure applied to the receptacle. The overpressure applied to the receptacle is caused by spiral spring 9 (Col. 6, line 51-Col. 7, line 12), which moves the mass back into its basic position. Therefore, the device disclosed by Fukumoto functions in accordance with the claimed invention because of the overpressure applied to the receptacle by spring 9 to move the mass back to its basic position.

15. In regards to applicant's arguments in the second full paragraph on page 10, applicant notes that Fukumoto discloses that the moveable body 2 is kept closed, however, applicant does not claim whether the receptacle is in the opened or closed

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position when the mass is in the deflected position. Furthermore, the entire function of a safety device, in the same manner as applicant's device, is to hold the receptacle closed in the event of a collision or extreme pressure on the receptacle, so that the receptacle does not open and cause injury to the individuals of the vehicle.

16. In regards to the rejection of claims 1-5 under 35 U.S.C. 112, second paragraph, if applicant wants to recite limitations regarding the "receptacle" either the word "for" in the phrase "A safety locking mechanism for a receptacle" should be removed, or the first reference to the receptacle should be "a receptacle" not "the receptacle." **Using the word "for" in the phrase previously notes is a suggestion of intended use of the safety locking mechanism with a receptacle.**

17. In regards to the drawing objection in the previous office action, applicant's arguments regarding the objection are persuasive, however, it seems as though the language which applicant uses, such as the second restoring device "maintains" the mass 11 in the position shown in Figure 2, is deceiving. It is apparent from the specification and the figures that the second restoring device in combination with the restoring rib 24 acts as a guide for the mass, and the engaging device 12 is the component that actually "maintains" the mass in its various positions by its engagement with notches 19 on the mass. **It is strongly suggested that applicant should clearly define in the specification and the claims that the second restoring device is a guide and does not maintain the mass in the position shown in Figure 2.**

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on (571) 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AM/AM
August 19, 2007


JENNIFER H. GAY
SUPERVISORY PATENT EXAMINER